

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH Case No 2014040521

ORDER GRANTING MOTION TO
DISMISS ISSUE 16

On April 9, 2014, Student filed a Request for Due Process Hearing (complaint) against the Irvine Unified School District (District) with the Office of Administrative Hearings (OAH). On April 21, 2014, District filed a Motion to Dismiss Issue 16, alleging that Student's claims are outside the scope of OAH's jurisdiction. Student did not submit a response.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to entertain claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.).

DISCUSSION

The District requests that OAH dismiss Issue 16, which alleges violations of Section 504 as OAH lacks jurisdiction to adjudicate this claim. Student's Issue 16 that the District violated Section 504 is dismissed as OAH does not have jurisdiction to adjudicate this claim.

ORDER

1. Issue 16 is dismissed.
2. The matter will proceed as scheduled as to the remaining issues and proposed resolutions.

DATE: May 1, 2014

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings